

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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CALVIN S. WEDINGTON,

Case No. 18-CV-2694 (SRN/SER)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

OFFICE OF INSPECTOR GENERAL,  
OFFICE OF INTERNAL AFFAIRS,  
FBOP: JAILOR-SUPERINTENTANT,  
FMC ROCHESTER, ET AL., and,  
SOS HANSEN,

Defendants.

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In an order dated October 9, 2018, this Court reviewed Plaintiff Calvin Wedington's complaint to assess his eligibility to proceed *in forma pauperis*. *See* Doc. 4. Wedington was given until November 30, 2018<sup>1</sup> to pay an intial partial filing fee of \$2.68, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Doc. 8, Fed. R. Civ. P. 41(b).

That deadline has passed, and Wedington has not paid the initial partial filing fee of \$2.68. In fact, Wedington has not communicated with the Court about his case at all since seeking additional time to pay the fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267

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<sup>1</sup> Wedington was initially directed to pay his partial filing fee by October 29, 2018 (Doc. 4), but that deadline was extended to November 30, 2018 after he requested more time to pay (Doc. 8).

Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

#### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: January 14, 2019

s/ Steven E. Rau

Steven E. Rau

U.S. Magistrate Judge

#### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).